

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**BRIAN TIMOTHY AGNOR, aka
TIMOTHY AGNOR**

3242 Meadow Ln.
Lemon Grove, CA 91945
Certified Public Accountant
Certificate No. CPA 92485

Respondent.

Case No. AC-2011-9

OAH No. 2011090728

DECISION AND ORDER


The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on

April 28, 2012

It is so ORDERED

March 29, 2012



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
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DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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13 **TIMOTHY AGNOR**
14 **3242 Meadow Ln.**
Lemon Grove, CA 91945

15 **Certified Public Accountant**
16 **Certificate No. CPA 92485**

17 Respondent.

Case No. AC-2011-9

OAH No. 2011090728

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
23 Accountancy. She brought this action solely in her official capacity and is represented in this
24 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,
25 Deputy Attorney General.

26 2. Respondent Brian Timothy Agnor, aka Timothy Agnor (Respondent) is represented
27 in this proceeding by attorney Adam Brown, Esq., whose address is: Torrance Executive Plaza,
28 3848 Carson Street, Suite 206, Torrance, CA 90503.

3. On or about June 10, 2005, the California Board of Accountancy issued Certified Public Accountant Certificate No. CPA 92485 to Brian Timothy Agnor (Respondent). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2011-9 and will expire on November 30, 2013, unless renewed.

JURISDICTION

4. First Amended Accusation No. AC-2011-9 was filed February 14, 2012 before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on June 9, 2011. Respondent timely filed his Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. AC-2011-9 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. AC-2011-9. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in First Amended
3 Accusation No. AC-2011-9.

4 10. Respondent agrees that his Certified Public Accountant Certificate is subject to
5 discipline and he agrees to be bound by the CBA's probationary terms as set forth in the
6 Disciplinary Order below.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the California Board of Accountancy or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the California Board of Accountancy.
14 Respondent understands and agrees that counsel for Complainant and the staff of the California
15 Board of Accountancy may communicate directly with the CBA regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to
19 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
20 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
21 between the parties, and the CBA shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that facsimile or electronic copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile or electronic signatures thereto, shall have
25 the same force and effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the CBA may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. CPA 92485
9 issued to Respondent Brian Timothy Agnor, aka Timothy Agnor, (Respondent) is revoked.
10 However, the revocation is stayed and Respondent is placed on probation for three (3) years on
11 the following terms and conditions.

12 1. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local
13 laws, including those rules relating to the practice of public accountancy in California.

14 2. **Submit Written Reports.** Respondent shall submit, within ten (10) days of
15 completion of the quarter, written reports to the CBA on a form obtained from the CBA. The
16 Respondent shall submit, under penalty of perjury, such other written reports, declarations, and
17 verification of actions as are required. These declarations shall contain statements relative to
18 Respondent's compliance with all the terms and conditions of probation. Respondent shall
19 immediately execute all release of information forms as may be required by the CBA or its
20 representatives.

21 3. **Personal Appearances.** Respondent shall, during the period of probation, appear in
22 person at interviews/meetings as directed by the CBA or its designated representatives, provided
23 such notification is accomplished in a timely manner.

24 4. **Comply With Probation.** Respondent shall fully comply with the terms and
25 conditions of the probation imposed by the CBA and shall cooperate fully with representatives of
26 the Board of Accountancy in its monitoring and investigation of the Respondent's compliance
27 with probation terms and conditions.

28 5. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice

1 investigation of the Respondent's professional practice. Such a practice investigation shall be
2 conducted by representatives of the CBA, provided notification of such review is accomplished in
3 a timely manner.

4 6. **Comply With Citations.** Respondent shall comply with all final orders resulting
5 from citations issued by the Board of Accountancy.

6 7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
7 Respondent should leave California to reside or practice outside this state, Respondent must
8 notify the CBA in writing of the dates of departure and return. Periods of non-California
9 residency or practice outside the state shall not apply to reduction of the probationary period, or
10 of any suspension. No obligation imposed herein, including requirements to file written reports,
11 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
12 affected by such periods of out-of-state residency or practice except at the written direction of the
13 CBA.

14 8. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,
15 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
16 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
17 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
18 matter is final, and the period of probation shall be extended until the matter is final.

19 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
20 license will be fully restored.

21 10. **Active License Status.** Respondent shall at all times maintain an active license
22 status with the CBA, including during any period of suspension. If the license is expired at the
23 time the CBA's decision becomes effective, the license must be renewed within 30 days of the
24 effective date of the decision.

25 ///

26 ///

27 ///

28 ///

11. **Cost Reimbursement.** Respondent shall reimburse the CBA \$3,925.53 for its investigation and prosecution costs. The payment may be made in one payment within 60 days of the Effective Date of this Decision, or by a payment plan comprised of equal monthly payments, provided that the final payment shall be made no later than one year before probation is scheduled to terminate.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Adam Brown, Esq.. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED:

3/5/12

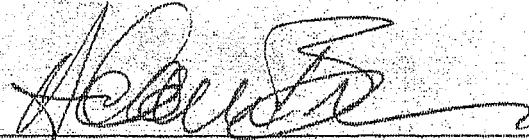


BRIAN TIMOTHY AGNOR, aka TIMOTHY AGNOR
Respondent

I have read and fully discussed with Respondent Brian Timothy Agnor, aka Timothy Agnor, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

3-6-12



ADAM BROWN, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: *March 7, 2012*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



CARL W. SONNE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2011-9

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12 In the Matter of the Accusation Against:

Case No. AC-2011-9

13 **BRIAN TIMOTHY AGNOR**
14 **3242 Meadow Lane**
Lemon Grove, CA 91945

FIRST AMENDED ACCUSATION

15 **Certified Public Accountant**
16 **Certificate No. CPA 92485**

17 Respondent.

18 Complainant alleges:
19

20 **PARTIES**

21 1. Patti Bowers (Complainant) brings this First Amended Accusation (Accusation)
22 solely in her official capacity as the Executive Officer of the California Board of Accountancy,
23 Department of Consumer Affairs.

24 2. On or about June 10, 2005, the California Board of Accountancy issued Certified
25 Public Accountant Certificate Number CPA 92485 to Brian Timothy Agnor (Respondent). The
26 Certified Public Accountant Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on November 30, 2013, unless renewed.
28

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (CBA), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

6. Section 5063 of the Code requires a licensee to report in writing to the Board within 30 days all felony convictions and convictions of any crime: related to the qualifications, functions or duties of a licensee or committed in the course and scope of practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information.

7. Section 5100 of the Code states in pertinent part as follows:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

1 "(a) Conviction of any crime substantially related to the qualifications,
2 functions and duties of a certified public accountant or a public accountant.

3 8. Section 5106 of the Code states:

4 "A plea or verdict of guilty or a conviction following a plea of nolo
5 contendere is deemed to be a conviction within the meaning of this article. The
6 record of the conviction shall be conclusive evidence thereof. The board may
7 order the certificate or permit suspended or revoked, or may decline to issue a
8 certificate or permit, when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal or when an order granting probation is
10 made, suspending the imposition of sentence, irrespective of a subsequent order
11 under the provisions of Section 1203.4 of the Penal Code allowing such person to
12 withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the
13 verdict of guilty or dismissing the accusation, information or indictment."

14 9. Section 5107(a) of the Code states:

15 "The executive officer of the board may request the administrative law
16 judge, as part of the proposed decision in a disciplinary proceeding, to direct any
17 holder of a permit or certificate found to have committed a violation or violations
18 of this chapter to pay to the board all reasonable costs of investigation and
19 prosecution of the case, including, but not limited to, attorneys' fees. The board
20 shall not recover costs incurred at the administrative hearing."

21 10. Section 5109 of the Code provides that the expiration, cancellation, forfeiture or
22 suspension of a license shall not deprive the CBA of jurisdiction to proceed with any
23 investigation of or action or disciplinary action against the licensee, or to render a decision
24 suspending or revoking a license.

25 11. Title 16 of the California Code of Regulations, section 99, states:

26 For the purposes of denial, suspension, or revocation of a certificate or
27 permit pursuant to Division 1.5 (commencing with Section 475) of the Business
28 and Professions Code, a crime or act shall be considered to be substantially related
to the qualifications, functions or duties of a certified public accountant or public
accountant if to a substantial degree it evidences present or potential unfitness of a
certified public accountant or public accountant to perform the functions
authorized by his or her certificate or permit in a manner consistent with the public
health, safety, or welfare. Such crimes or acts shall include but not be limited to
those involving the following:

(a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;

(b) Fraud or deceit in obtaining a certified public accountant's certificate or a
public accountant's permit under Chapter 1, Division III of the Business and

Professions Code;

(c) Gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052 of the code;

(d) Violation of any of the provisions of Chapter 1, Division III of the Business and Professions Code or willful violation of any rule or regulation of the board.

**FIRST CAUSE FOR DISCIPLINE
(Conviction for Indecent Exposure)**

12. Respondent has subjected his license to disciplinary action for unprofessional conduct under Code sections 5100(a) and 490 in that he was convicted of a crime substantially related to the qualifications, functions or duties of a licensee. On or about July 19, 2010, in a criminal proceeding entitled *People v. Brian Timothy Agnor* in Orange County Superior Court, Case Number 09CM06532, Respondent was convicted by plea of guilty to one count of Penal Code section 314(1) (indecent exposure), a misdemeanor, based upon events which took place in 2009. The circumstances surrounding the conviction are as follows:

13. On or about May 14, 2009, Respondent in violation of Penal Code section 314(1) Respondent did willfully, lewdly, and unlawfully expose his person and private parts in a public place where there were present other persons to be offended and annoyed thereby.

14. On or about July 19, 2010, Respondent was sentenced to three (3) years formal probation, 90 days in Orange County Jail, 30 of which were stayed on condition of successful completion of probation, a restitution fine in the amount of \$100, and a \$100 Probation Revocation Restitution Fee, which was suspended unless his parole is revoked. Respondent thereafter served sixty days in the Orange County Jail. Respondent is now a registered sex offender.

**SECOND CAUSE FOR DISCIPLINE
(Failure to Report Convictions)**

15. Respondent is subject to discipline under section 5063(a)(1)(A-B) of the Code in that he failed to report his conviction, as detailed in paragraphs 13 to 15, above, to the Board within thirty days after it was entered by his guilty plea made on July 19, 2010.

THIRD CAUSE FOR DISCIPLINE

(October 5, 2011 Criminal Conviction for Driving

While Having Measurable Alcohol on June 11, 2011)

16. Respondent has subjected his license to disciplinary action for unprofessional conduct under Code sections 5100(a) and 490 in that he was convicted of a crime substantially related to the qualifications, functions or duties of a licensee. The circumstances are as follows:

a. On or about October 5, 2011, in a criminal proceeding entitled *People of the State of California v Brian Timothy Agnor*, in San Diego County Superior Court Case No. C312432, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23103 per 23103.5, reckless driving with measurable blood alcohol, a misdemeanor.

b. As a result of the conviction, on or about October 5, 2011, Respondent was sentenced to three years summary probation, completion of a 3-month First Conviction Program, standard alcohol conditions, complete MADD program by January 6, 2012, and pay fees, and fines, in the amount of \$1,200.

c. The circumstances that led to the conviction were that on or about 10:42 p.m. on June 11, 2011, an officer from the California Highway Patrol observed Respondent's vehicle approaching that had a driver's side headlamp that was not illuminated, a violation of Vehicle Code 22400(a)(a). Respondent's vehicle was consequently stopped by the officer. The officer detected the odor of alcohol from within the vehicle, and Respondent admitted to drinking "Just a beer or two." The officer then administered field sobriety tests, and Respondent performed them in a manner consistent with a person under the influence of alcohol. Respondent agreed to submit to a preliminary alcohol screening device, which gave results of .086 and .088. Respondent was


1 arrested and transported to a facility where he gave a sample of blood. The results of the blood
2 sample revealed a blood alcohol concentration (BAC) of 0.08 percent.

3
4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the California Board of Accountancy issue a decision:

- 7 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
8 Accountant Certificate Number CPA 92485, issued to Brian Timothy Agnor;
9 2. Ordering Brian Timothy Agnor to pay the California Board of Accountancy the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 5107;
12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 2-14-12


PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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